

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MICHAEL GRIGGS

Plaintiff,

v.

JOHN BANUELOS,

Defendant.

Case No. 1:25-cv-00613-SKO

FIRST SCREENING ORDER

**ORDER FOR PLAINTIFF TO:**

- (1) **FILE A FIRST AMENDED COMPLAINT; OR**
- (2) **NOTIFY THE COURT THAT HE WISHES TO STAND ON HIS COMPLAINT**

(Doc. 1)

**THIRTY-DAY DEADLINE**

On May 23, 2025, Plaintiff Michael Griggs (“Plaintiff”), proceeding *pro se*, filed an action. (Doc. 1.) On that same date, Plaintiff also filed an application to proceed *in forma pauperis*, which was granted on May 27, 2025. (Docs. 2 & 3.) Plaintiff’s complaint is now before the Court for screening. Upon review, the Court concludes that the complaint fails to state any cognizable claims.

Plaintiff has the following options as to how to proceed. Plaintiff may file an amended complaint, which the Court will screen in due course. Alternatively, Plaintiff may file a statement with the Court stating that he wants to stand on this complaint and have it reviewed by the presiding district judge, in which case the Court will issue findings and recommendations to an assigned district judge consistent with this order. If Plaintiff does not file anything, the Court will recommend

1 that the case be dismissed.

## 2 I. SCREENING REQUIREMENT AND STANDARD

3 In cases where the plaintiff is proceeding *in forma pauperis*, the Court is required to screen  
 4 each case and shall dismiss the case at any time if the Court determines that the allegation of poverty  
 5 is untrue, or that the action or appeal is frivolous or malicious, fails to state a claim upon which  
 6 relief may be granted, or seeks monetary relief against a defendant who is immune from such relief.  
 7 28 U.S.C. § 1915(e)(2). *See also Calhoun v. Stahl*, 254 F.3d 845 (9th Cir. 2001) (dismissal required  
 8 of *in forma pauperis* proceedings which seek monetary relief from immune defendants); *Cato v.*  
 9 *United States*, 70 F.3d 1103, 1106 (9th Cir. 1995) (district court has discretion to dismiss *in forma*  
 10 *pauperis* complaint under 28 U.S.C. § 1915(e)); *Barren v. Harrington*, 152 F.3d 1193 (9th Cir.  
 11 1998) (affirming *sua sponte* dismissal for failure to state a claim). If the Court determines that a  
 12 complaint fails to state a claim, leave to amend may be granted to the extent that the deficiencies of  
 13 the complaint can be cured by amendment. *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000) (en  
 14 banc).

15 In determining whether a complaint fails to state a claim, the Court uses the same pleading  
 16 standard used under Federal Rule of Civil Procedure 8(a). A complaint must contain “a short and  
 17 plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2).  
 18 Detailed factual allegations are not required, but “[t]hreadbare recitals of the elements of a cause of  
 19 action, supported by mere conclusory statements, do not suffice.” *Ashcroft v. Iqbal*, 556 U.S. 662,  
 20 678 (2009) (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). A complaint may be  
 21 dismissed as a matter of law for failure to state a claim for two reasons: (1) lack of a cognizable  
 22 legal theory; or (2) insufficient facts under a cognizable legal theory. *See Balistreri v. Pacifica*  
 23 *Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990). Plaintiff must allege a minimum factual and legal  
 24 basis for each claim that is sufficient to give each defendant fair notice of what the plaintiff’s claims  
 25 are and the grounds upon which they rest. *See, e.g., Brazil v. U.S. Dep’t of the Navy*, 66 F.3d 193,  
 26 199 (9th Cir. 1995); *McKeever v. Block*, 932 F.2d 795, 798 (9th Cir. 1991).

27 In reviewing the *pro se* complaint, the Court is to liberally construe the pleadings and accept  
 28 as true all factual allegations contained in the complaint. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007).

1 Although a court must accept as true all factual allegations contained in a complaint, a court need  
 2 not accept a plaintiff's legal conclusions as true. *Iqbal*, 556 U.S. at 678. "[A] complaint [that]  
 3 pleads facts that are 'merely consistent with' a defendant's liability . . . 'stops short of the line  
 4 between possibility and plausibility of entitlement to relief.'" *Id.* (quoting *Twombly*, 550 U.S. at  
 5 557).

## 6 **II. SUMMARY OF PLAINTIFF'S COMPLAINT**

7 Plaintiff drafted his complaint using the general complaint form provided by this Court. The  
 8 complaint names "John Banuelos (S254) Fax Unit" as the defendant. (Doc. 1 at 1, *see id.* at 2.)  
 9 Plaintiff states that subject matter jurisdiction is based on federal question, (*id.* at 3), based on  
 10 "California Penal Code 118.1," (*id.* at 4.)

11 The statement of claim section of the complaint states:

12 Sgt John Banuelos out Right lied in Police Report. He altered videos. He left out  
 13 videos that would prove I was telling the truth. He covered for someone with no  
 14 license or insurance. Impounded my car Took me to jail and I had License and  
 15 Insurance. Had to bail out but Lady that Ran into the back of was Let go and  
 allowed to keep her car even though not having License nor insurance.

16 (*Id.* at 5.) Regarding the relief sought, Plaintiff writes "Under 42 U.S.C. 1983 Im seeking 25,000  
 17 [in] compensatory Damages. And 25,000 in punitive Damages." (*Id.* at 6.)

## 18 **III. DISCUSSION**

### 19 **A. Rule 8**

20 Rule 8 states that a complaint must contain "a short and plain statement of the claim showing  
 21 that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). Plaintiff's complaint violates Rule 8  
 22 because it does not contain a short and plain statement of the claim demonstrating that he is entitled  
 23 to relief. Although the Federal Rules use a flexible pleading policy, Plaintiff is required to give fair  
 24 notice to Defendant of the basis of the claim and must allege facts that support the elements of the  
 25 claim plainly and succinctly. A complaint must contain sufficient factual allegations to give the  
 26 defendant fair notice of the claim and the grounds upon which it rests. *Twombly*, 550 U.S. at 555.

27 Here, there are insufficient allegations in the complaint to identify the basis of the claim.  
 28 Plaintiff alleges Defendant "out Right lied," "covered for someone," and "altered videos" (Doc. 1

at 5), but does not allege a violation of a federal constitutional right, nor explain how any of Defendant's alleged actions gave rise to such a violation. This is not permissible because it does not give the defendant "fair notice" of the claims against which they must defend and the facts and legal theories that give rise to the claims. *See* Fed. R. Civ. P. 8(a)(2).

Plaintiff must set forth factual allegations sufficient to state a claim. If Plaintiff elects to amend his complaint, he must state the legal basis for the claim and then identify how the facts alleged support and show that the particular defendant committed the violation asserted as the legal basis for the claim. *See* Fed. R. Civ. P. 8(a). The failure to do so may result in dismissal of this action.

## **B. Legal Standards**

In the event Plaintiff amends his complaint, the Court provides the following legal standards that may be relevant to his action:

### **1. Section 1983**

To the extent Plaintiff intends to assert a civil rights claim, 42 U.S.C. § 1983 ("Section 1983"), known as the Civil Rights Act, provides:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress . . . .

42 U.S.C. § 1983. "[Section] 1983 'is not itself a source of substantive rights,' but merely provides 'a method for vindicating federal rights elsewhere conferred.'" *Graham v. Connor*, 490 U.S. 386, 393-94 (1989) (quoting *Baker v. McCollan*, 443 U.S. 137, 144 n.3 (1979)); *see also* *Chapman v. Houston Welfare Rights Org.*, 441 U.S. 600, 618 (1979); *Hall v. City of Los Angeles*, 697 F.3d 1059, 1068 (9th Cir. 2012); *Crowley v. Nevada*, 678 F.3d 730, 734 (9th Cir. 2012); *Anderson v. Warner*, 451 F.3d 1063, 1067 (9th Cir. 2006).

To state a claim under Section 1983, a plaintiff must allege that the defendant (1) acted under

color of state law, and (2) deprived them of rights secured by the Constitution or federal law.<sup>1</sup> *Long v. County of Los Angeles*, 442 F.3d 1178, 1185 (9th Cir. 2006); *see also Marsh v. Cnty. of San Diego*, 680 F.3d 1148, 1158 (9th Cir. 2012) (discussing “under color of state law”). A person deprives another of a constitutional right, “within the meaning of [Section] 1983, ‘if he does an affirmative act, participates in another’s affirmative act, or omits to perform an act which he is legally required to do that causes the deprivation of which complaint is made.’” *Preschooler II v. Clark Cnty. Sch. Bd. of Trs.*, 479 F.3d 1175, 1183 (9th Cir. 2007) (quoting *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978)). “The requisite causal connection may be established when an official sets in motion a ‘series of acts by others which the actor knows or reasonably should know would cause others to inflict’ constitutional harms.” *Preschooler II*, 479 F.3d at 1183 (quoting *Johnson*, 588 F.2d at 743). This standard of causation “closely resembles the standard ‘foreseeability’ formulation of proximate cause.” *Arnold v. Int’l Bus. Mach. Corp.*, 637 F.2d 1350, 1355 (9th Cir. 1981); *see also Harper v. City of Los Angeles*, 533 F.3d 1010, 1026 (9th Cir. 2008).

A plaintiff must also demonstrate that each named defendant personally participated in the deprivation of their rights. *Iqbal*, 556 U.S. at 676–77. In other words, there must be an actual connection or link between the actions of the defendant and the deprivation alleged to have been suffered by Plaintiff. *See Monell v. Dep’t of Soc. Servs. of City of N.Y.*, 436 U.S. 658, 691, 695 (1978).

## 2. Related Criminal Proceedings

When seeking damages for an allegedly unconstitutional conviction or imprisonment, “a [section] 1983 plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court’s issuance of a writ of habeas corpus, 28 U.S.C. § 2254.” *Heck v. Humphrey*, 512 U.S. 477, 487–88 (1994). “A claim for damages bearing that relationship to a conviction or sentence that has not been so invalidated is not cognizable under

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<sup>1</sup> To the extent Plaintiff basis his section 1983 claim on a violation of the California Penal Code, Plaintiff is advised such deprivations do not support a claim under section 1983. Section 1983 only provides a cause of action for the deprivation of *federally protected rights*. *See Ellis v. City of San Diego*, 176 F.3d 1183, 1189 (9th Cir. 1999) (district court properly dismissed claims brought under several sections of the California Penal Code because those code sections did not create enforceable individual rights); *Nurre v. Whitehead*, 580 F.3d 1087, 1092 (9th Cir. 2009) (section 1983 claims must be premised on violation of federal constitutional right).

[section] 1983.” *Id.* at 488. Plaintiff may not seek damages under Section 1983 unless the subject conviction or sentence has been declared invalid by a state court or a federal court’s issuance of a writ of habeas corpus. *See Heck*, 512 U.S. at 486–87; *Milewski v. Kohn*, No. 3:19–CV–00095–MMD–WGC, 2019 WL 1117909, at \*2 (D. Nev. Mar. 11, 2019).

Finally, to the extent Plaintiff is attempting to challenge any ongoing state criminal proceedings, any such claim is barred under the doctrine of *Younger v. Harris*, 401 U.S. 37 (1971). The *Younger* doctrine “prevents a federal court in most circumstances from directly interfering with ongoing criminal proceedings in state court.” *Jones v. Buckman*, No. 2:18–cv–0054–MCE–EFB, 2019 WL 1227921, at \*2 (E.D. Cal. Mar. 15, 2019). “Further, the *Younger* abstention doctrine bars requests for declaratory and monetary relief for constitutional injuries arising out of a plaintiff’s ongoing state criminal prosecution.” *Id.* (citing *Mann v. Jett*, 781 F.2d 1448, 1449 (9th Cir. 1986)).

### C. Leave to Amend

In sum, the Court has screened Plaintiff’s complaint and finds that it fails to state any cognizable claims. Under Rule 15(a)(2) of the Federal Rules of Civil Procedure, “the court should freely give leave [to amend] when justice so requires.” Accordingly, the Court will provide Plaintiff with time to file an amended complaint, so Plaintiff can provide additional factual allegations. *Lopez*, 203 F.3d at 1126–30.

Plaintiff is granted leave to file an amended complaint within thirty days. If Plaintiff chooses to amend his complaint, in his amended complaint he must state what each named defendant did that led to the deprivation of his constitutional or other federal rights—not her son’s. Fed. R. Civ. P. 8(a); *Iqbal*, 556 U.S. at 678; *Jones v. Williams*, 297 F.3d 930, 934 (9th Cir. 2002). Plaintiff should note that although he has been given the opportunity to amend, it is not for the purpose of changing the nature of this suit or adding unrelated claims. *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007) (no “buckshot” complaints).

Plaintiff is advised that an amended complaint supersedes the original complaint, *Lacey v. Maricopa County*, 693 F.3d 896, 907 n.1 (9th Cir. 2012) (*en banc*), and it must be complete in itself without reference to the prior or superseded pleading, E.D. Cal. Local Rule 220. Therefore, in an amended complaint, as in an original complaint, each claim and the involvement of each Defendant

1 must be sufficiently alleged. The amended complaint should be clearly and boldly titled “First  
2 Amended Complaint,” refer to the appropriate case number, and be an original signed under penalty  
3 of perjury.

4 Plaintiff has a choice on how to proceed. Plaintiff may file an amended complaint if he  
5 believes that additional true factual allegations would state cognizable claims. If Plaintiff files an  
6 amended complaint, the Court will screen that complaint in due course. Alternatively, Plaintiff may  
7 choose to stand on his complaint subject to the Court issuing findings and recommendations to a  
8 district judge consistent with this order.

9 **ORDER**

10 Based on the foregoing, IT IS ORDERED that:

- 11 1. Within thirty (30) days from the date of service of this order, Plaintiff shall either:  
12 a. File a First Amended Complaint; or  
13 b. Notify the Court in writing that he wishes to stand on this complaint;  
14 2. If Plaintiff chooses to file an amended complaint, Plaintiff shall caption the amended  
15 complaint “First Amended Complaint” and refer to case number 1:25-cv-00613-  
16 SKO; and  
17 3. **Failure to comply with this order may result in the dismissal of this action.**

18 IT IS SO ORDERED.  
19

20 Dated: **May 27, 2025**

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE